

RESTRICTION REQUIREMENT

The Restriction Requirement requires restriction to one of the following inventions:

I. Claims 1-11, drawn to compounds of formula IA, IIA, IIIA and method of use thereof, classified in several heterocyclic classes (544, 544, 548, 546) and non-heterocyclic classes (558, 562, etc.), numerous subclasses.

II. Claims 1-11, drawn to compounds of formula IB, IIB, IIIB and method of use thereof, classified in several heterocyclic classes (544, 544, 548, 546) and non-heterocyclic classes (558, 562, etc.), numerous subclasses.

The requirement has also required the election of a single compound including an exact definition of each substitution on the base molecule (Formula I), wherein a single member at each substituent group or moiety is selected.

ELECTION

In order to be responsive to the requirement for restriction, Applicants elect the invention set forth in Group II, claims 1-11, drawn to compounds of formula IB, IIB, IIIB and method of use thereof, and compound 13 (page 13 of specification) as well as second compound 17, if appropriate, with traverse. Applicants submit that at least claims 1, 2, 5, 6, 7, 8, 10 and 11 are generic, and that at least claims 1-11 are readable on the elected species.

TRAVERSE

Notwithstanding the election of the claims of Group II and species associated with compound 13 (and compound 17 as a second compound, if appropriate) in order to be

responsive to the Restriction Requirement, Applicants respectfully traverse the Examiner's requirement for restriction.

Initially, it is noted that the requirement for restriction omits one of the two criteria of a proper requirement as now established by U.S. Patent and Trademark Office policy, as set forth in MPEP 803, viz. that "an appropriate explanation" must be advanced by the Examiner as to the existence of a "serious burden" if a restriction were not required. Due to the aforementioned omission, it is respectfully submitted that the requirement for restriction is improper and, consequently, its withdrawal is respectfully requested.

Related to this, the requirement is traversed since there would not appear to be a serious burden to examine Applicants' application in total, and for which the appropriate claim fees have been paid. Applicants submit that it would be no serious burden on the Examiner to examine all of the claimed subject matter, because a search for all of the claimed subject matter in the above-identified application, should be made in order to do a complete and thorough search and examination of the claimed subject matter. Applicants submit that a search of the subject matter in the two groups of invention should be overlapping and there should be no "serious burden" for examination purposes to examine both groups of claims.

In any event, even if the restriction requirement and/or election of species requirement is maintained, the Examiner is respectfully requested to rejoin the non-elected claims upon allowance of the elected invention and/or species.

In view of the foregoing, it is respectfully requested that the Examiner reconsider the requirement for restriction and election of species, and withdraw the same so as to give an examination on the merits on all of the claimed subject matter and species pending in this

application. In any event, consideration of rejoinder of the non-elected subject matter is requested upon allowance of the elected claims.

CONCLUSION

The Examiner is respectfully requested to reconsider and withdraw the restriction requirement.

Furthermore, even if the restriction requirement is initially maintained, if the elected claims are found to be allowable, reconsideration and rejoinder of the non-elected claims is requested.

Should the Examiner have any questions, please contact the undersigned at the telephone number provided below.

Respectfully Submitted,
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